IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 496 (S/B) 2003

Madan Mishra, S/o Sri Puroshotam Mishra,
R/o House No. D-17, Staff Colony,
Dwarahat, Almora,
Permanent Address:
House No. 108, Avas Evam Vikas Colony,
Batiya Hanta (North), Gorakhpur, U.P.
……. Petitioner

Versus

The State of Uttaranchal,
through Principal Secretary
Technical Education Department,
Civil Secretariat, Dehradun,
Uttaranchal and others ……. Respondents

Mr. Harish Chandra, Advocate, for the petitioner.
Mr. K.P.Upadhayaya, Counsel for the respondents nos. 1 and 2.
Mr. B.D.Upadhayaya, Advocate for the respondent no. 3.

Coram: Hon. S.H. Kapadia, C.J.
Hon. M.M. Ghildiyal, J.

Dated: 29.10.2003

PC:

On 30.7.1998, the petitioner was appointed against leave vacancy. Since then, he has continued as a Lecturer.

By this writ petition, the petitioner has challenged the advertisement (Annexure 9 to the writ petition), by which the post of Lecturer in Computer Science and Engineering is sought to be filled in. It is the case of the petitioner that although he was appointed against the leave vacancy, on resignation of Dr. Rana, his appointment was on substantive basis as a Lecturer and, therefore, advertisement should not be given effect to.

We do not find any merit in this argument. The advertisement has been issued by Kumaon Engineer College in Dwarahat, district Almora. The petitioner is free to compete in the selection. In fact, the petitioner is entitled to weightage for having worked as a Lecturer over the years from 1998. However, we cannot stall the selection

process which has commenced with the issuance of the advertisement, particularly when the petitioner was appointed against the leave vacancy in 1998. The College has every right to issue advertisement and fill in the post in accordance with law. Hence, there is no merit in the writ petition.

Subject to above, the writ petition is rejected.

(**M.M. Ghildiyal, J.**) (**S.H. Kapadia, C.J.**)

AK.